

OFFICE OF THE INSPECTOR GENERAL

STEVE WHITE, INSPECTOR GENERAL

SPECIAL REVIEW OF THE OFFICE OF INVESTIGATIVE SERVICES

CALIFORNIA DEPARTMENT OF CORRECTIONS



OCTOBER 2001

STATE OF CALIFORNIA

GRAY DAVIS, GOVERNOR

Memorandum

Date: October 29, 2001

To: EDWARD S. ALAMEIDA, JR.
Director, California Department of Corrections

From: STEVE WHITE 
Inspector General

Subject: SPECIAL REVIEW OF THE DEPARTMENT OF CORRECTIONS OFFICE OF INVESTIGATIVE SERVICES

I am pleased to forward to you the enclosed report of the special review conducted by the Office of the Inspector General of the management practices and administrative operations of the Office of Investigative Services. The review was performed pursuant to *California Penal Code* Section 6126 and Chapter 338, Sections 7(b)(1) and (2), Statutes 1998 (SB 295).

The report identified a number of significant issues that jeopardize the ability of the Office of Investigative Services to efficiently and effectively fulfill its mission. Some of the issues raised are beyond the control of the Office of Investigative Services. I urge you and your department's executive staff to review and monitor the reform efforts and provide guidance and support as necessary.

A draft version of the report was provided to the Office of Investigative Services for review, and Office of Investigative Services Assistant Director (Interim) Brian Parry has provided written comments expressing general agreement with our findings and recommendations. Assistant Director Parry's comments are included in the report as Attachment A. I am particularly encouraged by Assistant Director Parry's comment that the department will use this report as a blueprint for change in the operations of the Office of Investigative Services.

Please call me if you have questions concerning the report.

cc: Robert Presley, Secretary, Youth and Adult Correctional Agency
Brian Parry, Assistant Director (Interim), Department of Corrections Office of Investigative Services

OFFICE OF THE INSPECTOR GENERAL

STEVE WHITE, INSPECTOR GENERAL



**SPECIAL REVIEW OF THE
OFFICE OF INVESTIGATIVE SERVICES
CALIFORNIA DEPARTMENT OF CORRECTIONS**

REPORT

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STATE OF CALIFORNIA

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OFFICE OF THE INSPECTOR GENERAL



**SPECIAL REVIEW OF THE
OFFICE OF INVESTIGATIVE SERVICES
CALIFORNIA DEPARTMENT OF CORRECTIONS**

REPORT

OCTOBER 29, 2001

This report presents the results of a special review conducted by the Office of the Inspector General of the management practices and administrative operations of the California Department of Corrections Office of Investigative Services, which is responsible for investigating allegations of serious (Category II) employee misconduct throughout the department. The review was performed under the oversight authority assigned to the Office of the Inspector General in *California Penal Code* Section 6126 and Chapter 338, Sections 7(b) (1) and (2), Statutes 1998 (SB 295). The review focused mainly on the processes and controls employed by the Office of Investigative Services in the areas of personnel management, case management, and case investigation and was performed at the Office of Investigative Services headquarters and its three regional offices from January through June 2001.

The Office of the Inspector General found that the Office of Investigative Services cannot fulfill its mandate with its existing resources without making significant changes in its management practices. The agency's caseload has more than doubled since the office came into existence and has now reached such a level that a large percentage of investigations are not completed within required time limits. As a result, the department cannot take appropriate administrative action against employees when allegations are sustained. The Office of the Inspector General also found that the Office of Investigative Services is not fulfilling its secondary responsibility for overseeing investigations conducted by the institutions into less serious (Category I) employee misconduct.

The Office of the Inspector General identified a number of management problems that impair the ability of the Office of Investigative Services to effectively meet its responsibilities. Among these are the following:

- An inaccurate and unreliable management information system;
- The absence of a system for assessing case priority;
- Inadequate controls to prevent abuse of overtime pay;
- Ineffective oversight of regional offices;
- Inadequate background checks of investigators;
- Failure to conduct background checks of borrowed staff;

- Inadequate staff training program;
- Inadequate control over access to the case tracking system;
- Inadequate documentation in case files;
- Inconsistencies among regional offices in rejecting cases for investigation by the Office of Investigative Services;
- Deficiencies in handling and storing evidence;
- Deficiencies in armory policies and procedures.

The Office of the Inspector General recommends that the Office of Investigative Services take immediate steps to address each of these deficiencies. Specific recommendations are described in the main body of this report.

INTRODUCTION

The Office of the Inspector General was established by *California Penal Code* Section 6125 to provide oversight of the Youth and Adult Correctional Agency and its subordinate departments. Pursuant to *California Penal Code* Section 6126, the Office of the Inspector General is responsible for reviewing policies and procedures and conducting audits of investigative practices at departments within the Youth and Adult Correctional Agency. Such reviews and audits are intended to identify areas of noncompliance with departmental investigative policies and procedures, specify deficiencies in the completion and documentation of investigative processes, and recommend corrective actions related to those deficiencies and areas of noncompliance.

In addition, under Chapter 338, sections 7(b)(1) and (2), Statutes 1998 (SB 295), the Office of the Inspector General is responsible for performing reviews of internal affairs investigations of serious employee misconduct performed by all Youth and Adult Correctional Agency departments. The present review was performed pursuant to and in fulfillment of the Office of the Inspector General's oversight responsibilities for investigations performed by Youth and Adult Correctional Agency departments, specifically internal affairs investigations performed by the Department of Corrections Office of Investigative Services.

BACKGROUND

The Office of Investigative Services (originally named the Office of Internal Affairs) was created by the California Department of Corrections in July 1997 and assigned the responsibility of investigating allegations of serious employee misconduct occurring in any part of the department. The office is under the management of the Department of Corrections assistant director for the Office of Investigative Services, who reports directly to the department director. It has an annual operating budget of approximately \$7 million, supporting 102 investigative and clerical staff. The agency is responsible for overseeing approximately 46,000 Department of Corrections employees, 160,000 inmates, and 90,000 parolees at thirty-three institutions and four parole regions throughout the state.

Before the Office of Investigative Services was established, the local hiring authorities

(prisons and parole regions) conducted all investigations, including those involving serious misconduct. This arrangement raised questions from the Legislature and the public about the appropriateness of the department investigating its own employees. The Office of Investigative Services was therefore created to:

- Perform fair and impartial investigations;
- Ensure the consistent application of policies and procedures throughout the Department of Corrections;
- Provide highly trained staff with specialized skills to perform administrative and criminal investigations, particularly those related to incidents involving use of force, officer-involved shootings, and sexual assaults; and,
- Provide oversight for investigations of less serious misconduct performed by the institutions.

Under this organizational approach to investigations, the Office of Investigative Services performs all investigations of serious employee misconduct, which are termed “Category II” investigations. Investigations of less-serious allegations are still performed by the institutions and are termed “Category I” investigations. By the department’s definition, Category I investigations involve misconduct that is: related to job performance, falls within the normal scope of supervisory functions, and does not pose a threat to institution safety and security.

California Department of Corrections Operations Manual Section 31140.6.2 defines Category II misconduct as:

[E]mployee misconduct that is outside the scope of normal employee supervision and considered more serious or of wider scope than a Category I inquiry.... As such, Category II misconduct involves criminal actions and other behavior that jeopardizes safety and security, or negatively impacts the Department of Correction’s operation or reputation.

Pursuant to this provision, investigations are generally classified as Category II when the allegations involve the following:

- Felonious conduct
- Misdemeanor law violations
- Multi-jurisdictional interest
- Wide media interest
- A departmental employee’s inappropriate relationship with a non-employee
- Multiple employees
- High ranking employees
- More than one department or agency
- Improper employee association with an inmate, parolee, or an inmate or parolee’s family or friends
- Conduct involving moral turpitude or conduct that brings discredit to the department
- Spousal abuse, including violations of restraining orders or harassing conduct

- Misuse of state property, including theft of state property
- Misuse of peace officer authority or privilege
- Excessive force on an inmate involving injury or unusual circumstances
- Dishonesty in reporting incidents involving misconduct when such dishonesty undermines the integrity of department operations or discredits the department
- Employee association with prison gangs, gang members, or families of gang members
- Narcotic/contraband smuggling.

In addition, investigations typically are handled as Category II if they require:

- Specialized equipment or skills
- Off-premises surveillance
- Preparation or service of search warrants.

The responsibility of the Office of Investigative Services for performing and overseeing investigations includes allegations of misconduct against any of the more than 46,000 Department of Corrections employees located throughout the state. To fulfill that mandate, the Office of Investigative Services operates three regional offices—the northern regional office located in Sacramento, the central regional office located in Bakersfield, and the southern regional office located in Rancho Cucamonga. Notwithstanding the name change of the agency from the Office of Internal Affairs to the Office of Investigative Services, the regional offices are still referred to as OIA-North, OIA-Central, and OIA-South. In addition, the Office of Investigative Services operates a fourth office located in the Department of Corrections Sacramento headquarters. The headquarters office is responsible for deadly force investigations, investigations of the regional offices and staff, and investigations in which the regional offices have a conflict or do not possess the requisite specialized skills. In addition, the headquarters office is responsible for special projects assigned by the director or assistant director of the Department of Corrections. The 102 employees of the Office of Investigative Services include an assistant director, six staff counsel (two in each regional office), 80 investigative staff members, and fifteen administrative support staff.

OBJECTIVES, SCOPE, AND METHODOLOGY

The review focused on the overall policies and procedures established and implemented by the Office of Investigative Services management. The Office of the Inspector General examined the operations to determine compliance with established procedures, to evaluate the quality of operational practices, and to determine the level and effectiveness of oversight exercised by the Office of Investigative Services headquarters.

In its review, the Office of the Inspector General solicited comments from all wardens, investigative services unit captains at the institutions, and employee relations officers throughout the state about the quality and timeliness of Office of Investigative Services investigations.

The scope of the review included the following:

- 1. Staff qualification and training**
 - Minimum qualifications
 - Background checks and psychological screening
 - Training
- 2. Case management**
 - Case management and tracking system
 - Case tracking data quality and accuracy
- 3. Evaluation of investigation cases**
 - Case file review and evaluation
 - Rejected cases
 - Category I cases
- 4. Armory and evidence procedures**

The review procedures employed included, but were not necessarily limited to:

- Review of budget and fiscal data;
- Review of policies and procedures related to case acceptance, logging, rejection, and documentation;
- Review of the security and controls for the case tracking system (known as the internal affairs case tracking system);
- Review of the Office of Investigative Services internal affairs case tracking system reports and information;
- Review of background, personnel, and training files;
- Review of investigative case files;
- Review of armory and evidence policies and procedures, and inspection of the facilities;
- Interviews with the Office of Investigative Services management and staff;
- Interviews with other California Department of Corrections staff members who perform ancillary support functions for the Office of Investigative Services; and,
- Distribution, collection, and analysis of the Office of Investigative Services evaluation questionnaires sent to selected institutional personnel.

As a result of its survey of personnel, the Office of the Inspector General received positive comments concerning the knowledge of the Office of Investigative Services staff about investigative subject matter and about the overall working relationship of the Office of Investigative Services with the institutions, but many respondents expressed concern about the time required to complete investigations.

The Office of the Inspector General received excellent cooperation from the management and staff of the Office of Investigative Services' headquarters and regional offices. The review was performed at the headquarters and regional offices of the Office of Investigative Services. Additional work was performed at the California Department of Corrections Selection and Standards Branch, Office of Personnel Management, and Staff Development Center. The work focused primarily on the 1999 and 2000 calendar years. However, in order to gain perspective on a fiscal year basis and identify possible trends, the work included evaluation of data dating back to July 1998, and in some cases earlier periods. The review was performed from January to June 2001.

FINDINGS AND RECOMMENDATIONS

FINDING 1

The Office of the Inspector General found that the Office of Investigative Services cannot effectively manage its caseload with its present staffing levels unless it makes significant changes in its management practices.

The main responsibility of the Office of Investigative Services is conducting Category II investigations of allegations of serious staff misconduct, but the present caseload is such that a large proportion of investigations are not completed within required time limits. As a result, the department cannot take appropriate administrative action when allegations are sustained.

The office is also responsible for overseeing Category I investigations into less-serious misconduct allegations conducted by the investigative services units at institutions throughout the state. Because of its limited resources, however, the Office of Investigative Services is able to perform only minimal oversight of Category I investigations—a problem discussed more fully in Finding 10 of this report.

The Office of Investigative Services caseload has more than doubled in the four years since the office was established. During its first six months of operation beginning in July 1997, the office opened 413 cases. In calendar years 1998, 1999, and 2000, it opened 1,029, 1,302, and 1,301 cases, respectively. According to recent estimates by the Office of Investigative Services, as many as 1,780 cases may be opened in the 2001 calendar year.

To handle its caseload, the Office of Investigative Services employs about 60 special agents, but because that number is not sufficient to meet workload demands, the office routinely borrows staff from California Department of Corrections institutions. During the 1999-2000 fiscal year, 38 Department of Corrections employees were on loan to the Office of Investigative Services for temporary assignments of varying duration.

Time limits for completing investigations are not met. Even with the borrowed staff, the Office of Investigative Services is often unable to complete investigations on time. *California Department of Corrections Operations Manual* Section 31140.8 requires that investigations be completed within 60 days of assignment to the Office of Investigative Services. The deadline may be extended in 30-day increments for up to a total of six months.

In addition, under *California Government Code* Section 3304(d), any adverse administrative action against a peace officer, with certain exceptions, must be taken within one year of either the date of the incident or the date of discovery, whichever is later. Beyond the time required for the investigation itself, the one-year time frame must allow for the time needed for the institution to refer the case to the Office of Investigative Services and the time required for the Department of Corrections to process the case for administrative action afterward.

The Office of the Inspector General found that the deadlines frequently are not met. From a review of 97 randomly selected cases, the Office of the Inspector General found the following:

- ***More than 85 percent of the sampled cases failed to meet the 60-day deadline.*** The Office of the Inspector General found that 83 of the 97 sample cases selected failed to meet the 60-day limitation required by *California Department of Corrections Operations Manual* Section 31140.8. The average period required to complete a case was 181 days from the date of assignment. The review did not find evidence of requests for deadline extensions on the cases.
- ***Ten percent of the sampled cases failed to meet the one-year deadline.*** Of the 97 case files reviewed, 48 were subject to the one-year completion requirement. The Office of the Inspector General found that five of the 48 cases were not completed within the one-year time limit. The time required to complete the five cases ranged from 392 to 592 days from the discovery date. In four of the five cases, the charges were not sustained, but had they been sustained, the department would not have been able to take administrative action against the employee involved.

The fifth case, which resulted in a sustained allegation of sexual contact between a correctional officer and an inmate, was not completed until 572 days after the date of discovery. That case was referred to the Office of Investigative Services by the warden on November 12, 1998 and was completed on October 8, 1999, which was within the one-year time limit. A review of the case records showed, however, that the actual discovery date was March 17, 1998—the date a correctional officer reported the allegation to a correctional lieutenant in the investigative services unit at the institution. In the memorandum accepting the case as a Category II investigation, the Office of Investigative Services special agent-in-charge estimated that the case would be closed before April 13, 1999, yet it was not closed until October 8, 1999—572 days after discovery. The failure to meet the statutory deadline precluded the department from taking administrative action against the officer involved.

- ***An analysis of cases completed over a two-year period showed similar delays.*** To assess the validity of the sample results, the Office of the Inspector General prepared a schedule to analyze cases completed from January 1, 1999 through December 31, 2000 using data contained in the Office of Investigative Services management information system. Although the accuracy of the data in the management information system is questionable, as discussed in Finding 2 of this report, the analysis also revealed a pattern of significant delay in completing cases investigated during that period. The analysis showed that the Office of Investigative Services either rejected or completed investigations of 3,769 allegations during the two-year period. Of the 3,769 allegations, 175 (4.6 percent) were completed 365 or more days from the date of assignment, and another 323 (8.6 percent) required between 270 days and 365 days to complete.

It is important to note that these latter cases are also at high risk of not meeting the one-year time limitation for administrative action because the time limit begins at the date of discovery and, according to the Office of Investigative Services, must allow for a 60 to 90-day time lag between the date of discovery and the date the case is assigned. Of the 498 investigations that took more than 270 days to complete, 153 resulted in sustained allegations.

The failure of the Office of Investigative Services to complete cases on time can be partly attributed to limited staff resources, but the Office of the Inspector General identified a number of other factors that impair the ability of the agency to effectively fulfill its responsibilities:

- ***The management information system does not provide accurate and timely data.*** The deficiencies in the Office of Investigative Services management information system are discussed more fully in Finding 2 of this report, but, in brief, the system does not provide the data the Office of Investigative Services needs to effectively manage its overwhelming caseload and limited staff resources. The Office of the Inspector General found that because of the deficiencies in the information management system, the management of the Office of Investigative Services cannot rely on the information in the system to make decisions. Moreover, some of the information needed is not available from the system. For example, the system does not include the date an incident occurred or the date the incident was discovered. Without this information, the Office of Investigative Services cannot monitor the status of cases subject to the one-year deadline and must rely on the initiative of the special agents or their supervisors to ensure compliance.
- ***The Office of Investigative Services lacks a formalized system for prioritizing cases.*** In light of the overwhelming caseload and finite staff resources, the office needs a method of systematically identifying high-risk or time-sensitive cases and assigning staff resources accordingly. The Office of Investigative Services has no such system in place. Unless otherwise specified, the special agents or their supervisors generally make decisions about case priority. As a result, high-priority cases may not receive sufficient attention, while low-priority cases may be given more time than they merit.
- ***Operations and procedures are inconsistent among the regional offices.*** Lack of direction from the Office of Investigative Services headquarters has resulted in an absence of uniformity in procedures at the regional offices. The Office of the Inspector General found that the regional offices operate with considerable autonomy and that the procedures they use differ significantly. For example, each of the regional offices has developed its own stand-alone management information system for tracking cases, which operates in addition to the management information system at the headquarters office. The result is fragmentation and inconsistencies in the way cases are tracked and managed, as well as duplication of effort. Nor does information that might contribute to better consistency appear to be shared among

the offices. The Office of the Inspector General found, for example, that one of the regional offices has developed a comprehensive administrative manual for its special agents, but that the manual has not been provided to other regional offices or adopted by headquarters. Other examples of inconsistencies among the regional offices are described elsewhere in this report.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections address the present inability of the Office of Investigative Services to fulfill its responsibilities. As part of that effort, the department should reassess the mission and responsibilities of the Office of Investigative Services and, from that reassessment, allocate sufficient resources to the Office of Investigative Services to allow it to meet its mandate.

The Office of the Inspector General also recommends that the Office of Investigative Services review its organizational structure and administrative processes to ensure standardization in the operation of the regional offices. As a part of the process, the Office of Investigative Services should develop a formalized system for prioritizing cases.

FINDING 2

The Office of the Inspector General found that the management information system of the Office of Investigative Services is inaccurate and unreliable and does not contain the information needed for the agency to effectively manage its resources and caseload.

The Office of Investigative Services needs a management information system with procedures for accurately recording, tracking, and reporting investigative cases in order to effectively manage its resources and caseload. The case-tracking system presently used by the agency does not fulfill that purpose.

The Office of the Inspector General found the following deficiencies in the system:

The system inflates the number of hours spent on investigations. The hours recorded in the internal affairs case tracking system are significantly overstated because of the practice of charging hours incurred on one case to related cases. For example, in one case involving both criminal and administrative investigations requiring 3,994 hours to complete, the system reported the same 3,994 hours for three related cases. Each of the related cases required only a few hours of work for the purpose of copying the original case file for each of the related case files. Yet the system showed a total of 15,976 hours work on the four cases, overstating the investigative hours by approximately 11,982 hours. The system contains numerous such instances, raising questions about the accuracy and reliability of the data.

The system contains numerous errors and inconsistencies. In a review of all case-tracking log entries for 1999 and 2000, the Office of the Inspector General found that approximately one of every five entries contains errors, inconsistencies, or omissions. The following table provides a summary of the errors noted:

Year	Total Investigations Logged	Total Investigations with Irregularities	Percent
1999	1302	269	21
2000	1301	273	21
Total	2603	542	21

While the errors and omissions vary, examples include the following:

- **Cases not entered into the system.** The system does not include cases identified as fact-finding cases, completed cases assigned numbers but never entered into the system, or cases opened and later closed or rejected but not entered onto the system. The failure to log all cases gives the appearance that the Office of Investigative Services selectively keeps certain cases out of the system. Moreover, the practice is not consistent with *California Penal Code* Section 6065(b)(2), which requires that all allegations or complaints, whether investigated or not, be logged and sequentially numbered.
- **Duplicate case numbers given to unrelated cases.** Some cases are given the same case number even though they are unrelated and involve different subjects and allegations. This factor prevents the agency from accurately tracking the number of cases opened and closed, affects the accuracy of statistical information produced by the case tracking system, and could contribute to confusion or errors in the management of the investigations.
- **Inconsistent and missing dates.** Cases recorded in the system often are listed out of chronological date order or are missing information related to dates, such as closure date, or have inconsistent assignment and closure dates.
- **Number of allegations incorrect.** In several instances, the Office of the Inspector General found that the number of allegations had been either overstated or understated. This statistic is important because the Office of Investigative Services uses the number of allegations in its annual report, as well as in other external reports.

The system does not include needed information. The Office of the Inspector General also found that the system does not provide the information necessary to allow management to effectively track and monitor case progress and employee performance. Specifically, the case tracking system does not provide the following information:

- The total number of complaints received;
- The number of cases that have been completed or are still pending;
- The number of hours spent on the case, either by month or cumulatively;

- The number of hours recorded each month by each special agent;
- The incident or discovery date and the related twelve-month deadline for administrative action;
- The number and status of Category I investigations handled by the institution investigative services units.

The system does not adequately serve the regional offices, causing record-keeping to be fragmented. The case-tracking system at the Office of Investigative Services is not readily usable by the regional offices. The system is so slow that it sometimes takes regional offices several minutes to log on. Because of the system's limitations, the regional offices do not routinely use it and therefore do not print out the system's case-tracking reports. As a result, the regional offices do not review or otherwise use this information. Instead, each regional office uses its own in-house, stand-alone system to record and track cases, with the data from the regional systems sporadically transferred to the main system. Although the systems at the regional offices appear to function well and data integrity appears to be generally good, maintaining data in this fragmented way deprives the Office of Investigative Services management with the information needed to effectively manage cases and staff resources.

The system cannot be updated or adequately maintained. The Office of Investigative Services cannot make changes to the case-tracking system to improve its value as a management tool because the Department of Corrections Information Services Division cannot locate the access codes necessary to maintain, upgrade, or modify the system. Furthermore, even though the quality and design of the system directly affects the ability of the Office of Investigative Services to effectively manage investigations, the office cannot make unilateral decisions about system design and maintenance because development and maintenance of the system is the responsibility of the Information Systems Division.

These circumstances are inconsistent with sound management practices and with *California Department of Corrections Operations Manual* Sections 31140.16 and 41010 relating to the maintenance of investigation/inquiry records and files and the purpose of information management systems, respectively.

Section 31140.16 provides in pertinent part:

OIA shall maintain a complete automated log of all Category I and II inquiries/investigations to include the final disposition and any action taken on the matter.

Section 41010.2 provides:

Consistent with this policy, the primary purpose of the California Department of Corrections computer-based ITS is to assist in overall management of day-to-day operations of the California Department of Corrections headquarters, facilities, and parole offices.

RECOMMENDATION

The Office of the Inspector General recommends that the Office of Investigative Services, in concert with the Information Systems Division, review and modify the case-tracking system to ensure that it fully meets management information needs and department requirements. If it is determined that system modification is not feasible, the Office of Investigative Services should replace the system.

FINDING 3

The Office of the Inspector General found that the Office of Investigative Services lacks adequate controls to prevent overtime abuse.

Because overtime pay is susceptible to abuse, standard controls for overtime pay for state employees call for advance approval of overtime work and for supervisors to authorize payment after determining that the employee actually performed the work approved. Administrators should also periodically review overtime payments to identify patterns. *State Administrative Manual* Section 8540 provides in part:

As a general practice, compensation for overtime, either by cash payment or time off, should be based upon prior written approval signed by a designated supervisor.

The Office of the Inspector General found that the Office of Investigative Services lacks such controls. Instead, employees simply submit overtime slips at the end of the month along with the standard attendance form, effectively leaving overtime pay to the discretion of individual supervisors. Nor is there evidence of management assessment of overtime trends.

A review by the Office of the Inspector General of overtime in excess of 20 hours per month paid to Office of Investigative Services employees over a recent 13-month period raised questions about the legitimacy of overtime claimed. From March 1, 2000 through March 13, 2001, the Office of Investigative Services paid a total of \$1,153,968 to 62 special agents—an average of \$18,612 per agent.

The review also showed significant variation in overtime patterns among the agency offices, as reflected in the chart below:

Office	Number of Special Agents	Total Overtime Hours	Total Amount Paid	Average Overtime Hours Per Agent	Average Overtime Pay Per Agent
Headquarters	12	2,143	\$108,812	179	\$ 9,068
Northern	14	1,986	104,320	142	7,451
Central	20	11,011	584,317	551	29,216
Southern	16	6,748	356,519	422	22,282

There is no obvious explanation for the differences in overtime among the regional offices. Moreover, the Office of the Inspector General found dramatic differences among individual special agents in the amounts of overtime claimed. At one regional office, for example, one special agent was paid more than \$160,000 in total compensation during the 13 months reviewed, including \$81,940 for working 1,572.5 overtime hours—the equivalent of two full-time shifts. Yet, this agent’s caseload did not differ significantly from those of other special agents in the same office. The other agents in that office averaged 551 overtime hours for the same period—which was the highest average among the regional offices—while the average overtime paid to special agents during those months at all regional offices ranged from 179 to 551 hours.

The overtime differences raise obvious questions about the legitimacy of the hours claimed, but because the Office of Investigative Services lacks an effective means of tracking either regular or overtime hours, the accuracy of the claims cannot be assessed. At the very least, the control deficiencies provide the opportunity for errors or abuse. Even if the overtime claims are accurate, large amounts of overtime inevitably diminish the effectiveness of the agents working under those conditions and affect the quality of the work performed.

RECOMMENDATION

The Office of the Inspector General recommends that the Office of Investigative Services implement appropriate control measures governing overtime payments. The process should require prior authorization of overtime, supervisor approval before payment, and management oversight through review of payment trends and patterns. Management also should investigate discrepancies and take appropriate action to rectify problems.

FINDING 4

The Office of the Inspector General found that because of a departmentally imposed 11-hour limit on conducting background investigations, background checks of Office of Investigative Services agents are inadequate.

State law requires the Department of Corrections to conduct a background check of peace officers before they can be appointed as Office of Investigative Services agents. Specifically, *California Penal Code* Section 6065(b)(1) requires the department to perform a thorough background check of any peace officer selected to conduct internal affairs investigations in addition to the background screening conducted when the person was hired as a peace officer. *California Penal Code* Section 6126.1(c) also requires all internal affairs investigators to pass a psychological screening examination before being employed with the Department of Corrections. *California Government Code* Section 1029.1 specifies that the department should use standards defined by the Commission on Peace Officer Standards and Training as a guide to conducting background investigations.

The Office of the Inspector General found that the Department of Corrections is not meeting these requirements. The Department of Corrections Selection and Standards Branch, which performs the background investigations for Office of the Investigative Services agents, has imposed a limit of 11 hours for conducting each investigation—an amount of time insufficient for a thorough investigation of all material aspects of a candidate’s background. During a 1999 review of the Selection and Standards Branch, the Commission on Peace Officer Standards and Training also questioned allowing only 11 hours to prepare a comprehensive written report, perform financial checks, and conduct the required face-to-face interviews. To date the department has not taken action to address this concern.

The Office of the Inspector General reviewed 21 background investigation files on Office of Investigative Services agents according to the standards prescribed by the Commission on Peace Officer Standards and Training. The review found that the files typically did not include the following:

- ***Comprehensive written reports summarizing the findings of the background investigation.*** Of the files reviewed, only five contained written summaries and those summaries typically consisted of no more than a few lines about various areas of the investigation.
- ***Documentation of face-to-face interviews with previous employers, supervisors, co-workers, neighbors, relatives, and references.*** None of the sample files contained this information. Rather, the staff informed the Office of the Inspector General that the background investigators use a mailed questionnaire to elicit information.
- ***Financial history and credit checks to determine the past and present financial condition of the candidate.*** While this information can be valuable in evaluating the stability and susceptibility of candidates to outside influence, the department has made it a policy to omit this check. This decision is perplexing as the check can be done quickly and inexpensively.
- ***Documentation on clearance for medical examinations and psychological screenings.*** Although the department assured the Office of the Inspector General that these clearances are performed and verified, the Selection and Standards Branch was not able to provide evidence to support that assertion.
- ***Documentation that the candidate has not been the subject of past or pending serious disciplinary actions.*** Verification of this fact is mandated as part of the background check by *California Penal Code* Section 6065(b)(1), which states: “Any person who has been the subject of a sustained, serious disciplinary action, including, but not limited to, termination, suspension, or demotion, shall not pass the background check” and by *California Penal Code* Section 6126.2, which states in part, “the Department of Corrections, . . . shall not hire as an internal affairs investigator any person known to be directly or indirectly involved in an open internal affairs investigation being conducted by any federal, state, or local law enforcement agency, or the Inspector General.”

By enacting a statute requiring a “complete and thorough” second background investigation, the Legislature clearly intended to provide a higher level of assurance about the qualifications and character of special agents than required for other peace officers employed by the department. The department’s arbitrary 11-hour time limit on the investigations compromises the quality of the background check and creates doubts about the qualifications, character, and competency of special agents employed by the Office of Investigative Services.

RECOMMENDATION

The Office of the Inspector General recommends that the Department of Corrections take the following actions with respect to conducting background investigations of Office of Investigative Services special agent candidates:

- Remove the 11-hour limit on performing background investigations;
- Require background investigations to be conducted in accordance with the Commission on Peace Officer Standards and Training guidelines; and
- Require background investigation files to contain evidence to verify that candidates have not been the subject of past or pending serious adverse actions as mandated by *California Penal Code* Sections 6065(b)(1) and 6126.2.

FINDING 5

The Office of the Inspector General found that the department does not conduct background checks for borrowed staff performing internal affairs investigations.

The Office of Investigative Services borrows a significant number of employees from the institutions, regions, and other departmental units to perform internal affairs investigations. The agency uses these employees to conduct a significant portion of its investigative cases. Yet the department does not subject the borrowed employees to the supplemental background check mandated by *California Penal Code* Section 6065(b)(1). This practice raises questions about the integrity of the investigations performed.

During the 1999-00 fiscal year, the Office of Investigative Services borrowed 38 employees to perform internal affairs investigations. Without a thorough background check there is no assurance that these employees possess the qualifications, character, or competency level required of Office of Investigative Services special agents.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections comply with statutory requirements by conducting a background check on employees borrowed to conduct internal affairs

investigations. Because of the time and cost associated with background investigations, the Office of Investigative Services may wish to identify a finite pool of employees borrowed for internal affairs investigations and perform background checks on these employees.

FINDING 6

The Office of the Inspector General found that the Office of Investigative Services does not have a formalized plan for training special agents or sufficient means to monitor and track the training progress of special agents to ensure compliance with prescribed training policies.

California Department of Corrections Operations Manual Section 32010.13 prescribes a minimum 40-hour training requirement for all department employees. In recognition of the specialized training required for special agents, the Youth and Adult Correctional Agency also issued a policy memorandum dated July 8, 1999 requiring internal affairs investigators to complete 16 hours of advanced investigative skill training annually. The agency specified that the 16 hours could be used in meeting the 40-hour annual training requirement.

Adequate training is key to developing and maintaining an effective staff, and, as the Office of Investigative Services performs sensitive administrative and criminal investigations with the potential to significantly affect employee lives and careers, it is imperative that special agents have the necessary skills to discharge duties appropriately. Sound training is also essential to establishing the credibility of staff when the Office of Investigative Services findings are challenged during administrative and court proceedings. Lack of compliance also opens the department to potential liability.

The review by the Office of the Inspector General revealed several factors that compromise the ability of the Office of Investigative Services to ensure compliance with agency and departmental training policies. Specifically, the Office of the Inspector General found:

- ***The Office of Investigative Services does not have its own training budget.*** Under the present Department of Corrections process, the Office of Investigative Services receives an allocation of training funds based on amounts available from the department's general training budget. As a result, instead of providing training based on defined needs, the training provided depends primarily on the availability of funds. For example, during the 2000-01 fiscal year when the department experienced an overall budget shortfall, training funds were frozen and minimal training was provided.
- ***The Office of Investigative Services does not develop an annual training plan.*** In part because it is not required to prepare and manage its own training budget, the Office of Investigative Services does not prepare an annual training plan. Such plans are essential for identifying the individual and group training needs of the office and providing a systematic and coordinated approach to accomplishing training objectives.

- ***The Office of Investigative Services has not established specific minimum training requirements for each job classification.*** Minimum training requirements help to ensure that all employees have the requisite skills to perform the duties associated with individual job classifications. Standard training requirements also help ensure comparability of skill levels among the regional offices, help maintain the quality of work performed by the staff, and bolster the credibility of work performed by Office of Investigative Services investigators.
- ***The Office of Investigative Services lacks the information necessary to monitor employee compliance with training requirements.*** The California Department of Corrections Staff Development Center maintains a training database for tracking the progress of department employees in meeting the 40-hour annual training requirement. The Office of Investigative Services lacks online access to the Staff Development Center training database and therefore needs periodic training reports to monitor and track the training progress of the individual staff members. The Office of the Inspector General found, however, that the Staff Development Center does not provide training reports unless specifically requested to do so and the Office of Investigative Services does not regularly request the reports. As a result, the Office of Investigative Services does not know whether its employees are complying with the 40-hour and 16-hour annual training requirements.

The information in the Staff Development Center training database is not reliable. The Staff Development Center updates employee training records when the employee's training request is approved, but does not try to determine whether the classes were actually attended or successfully completed. The Staff Development Center also has no means of verifying the accuracy of the information in the database because it does not maintain the training files that reflect the actual classes attended. The Office of Investigative Services maintains the training files, but makes no effort to ensure that the information in the Staff Development Center database agrees with the information in the individual training files. As a result, neither the Staff Development Center training database nor the Office of Investigative Services training files can be used to monitor the training progress of the employees.

The California Department of Corrections training policy hinders the ability of the Office of Investigative Services to effectively monitor compliance with training requirements. The California Department of Corrections bases compliance with the 40-hour annual training requirement on the performance appraisal periods of individual employees. Under this system, Office of Investigative Services must attempt to monitor training compliance against the separate performance appraisal periods of approximately 100 staff members, an impossibility because of the deficiencies in the department's training database. As a result, responsibility for ensuring compliance effectively rests with the supervisors of individual employees, with varying results.

The Office of the Inspector General randomly selected training records for 25 Office of Investigative Services agents for review and found the following:

- Only 61 percent of the records sampled document compliance with the 40-hour training requirement for fiscal year 1998-99.
- Only 22 percent of the records sampled show compliance with the 40-hour training requirement for fiscal year 1999-00.
- Only 43 percent of the records sampled show compliance with the 16-hour annual requirement for investigative training for fiscal year 1999-00. (The 16-hour requirement was not in effect during the 1998-99 fiscal year.)

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections and the Office of Investigative Services take the following measures to improve the training program for Office of Investigative Services special agents:

- Allow the Office of Investigative Services to develop and manage its own training budget.
- Allow Office of Investigative Services staff members to comply with the 40-hour training requirement on a calendar year or fiscal year basis instead of basing compliance on each staff member's performance appraisal period.
- Establish minimum training requirements for each job classification to ensure that employees possess the minimum skills needed to perform assigned duties and to ensure comparability in the proficiency of staff members among the various offices.
- Prepare an annual training plan that identifies and summarizes training needs by employee, office, and topical area.
- Establish a separate training database for Office of Investigative Services staff members and maintain the training database at the Office of Investigative Services headquarters.

FINDING 7

The Office of the Inspector General found that the internal affairs case tracking system does not have adequate controls to prevent unauthorized access.

The inherent risk associated with misappropriation, misuse, deletion, or unauthorized modification of information in the internal affairs case tracking system is high because of

the highly sensitive and confidential nature of data maintained in the system. It is therefore imperative that the system include sound controls to prevent unauthorized access.

From a cursory review of administrative controls over the internal case tracking system, with particular emphasis on access controls, however, the Office of the Inspector General found the system vulnerable to unauthorized access. Specifically, the review revealed the following deficiencies:

User passwords do not expire and are not required to be changed periodically. Adequate access control dictates that passwords be changed periodically, such as every 30 to 90 days, to prevent unauthorized access by those who may have inappropriately obtained an authorized user's password. Yet neither the passwords for the Office of Investigative Services' network nor passwords for the case tracking system expire or are required to be changed periodically. Therefore, someone who inappropriately obtained passwords for the network and the case tracking system could have access to confidential information for an indefinite period.

Password controls can be overridden on the case tracking system. The ability to override the standard security protocol effectively renders password controls useless and precludes the department from tracking and monitoring access to the case tracking system.

Network and case tracking logon identifications are not purged in a timely manner. A review of authorized logon identifications disclosed that employees and contractors no longer working for the Office of Investigative Services still had logon identifications, thus allowing them continued access to the network and case tracking system. To protect the confidentiality and integrity of data, only personnel with a legitimate need for access to the network and case-tracking system should have logon identifications. This weakness arises because no periodic review of logon identifications is performed to verify the appropriateness of those authorized to have access to the system and data.

The department retains only a two-day history of system logons. The two-day history of system access is not sufficient to provide a security benefit. Under this system, unless an intrusion is discovered within 48 hours, the historical record of users who were on the system at the time of the intrusion is lost. Depending on the nature of the system and the number of users, a typical access log should retain information for a period of one week to six months. While the ideal retention period is debatable, it is clear that the two-day history is inadequate.

Some department employees have system access incompatible with current job duties. The level of access allowed to the case tracking system should be commensurate with an employee's job classification and duties in order to limit the opportunity of employees to use the system or information inappropriately. The Office of the Inspector General found, however, that some employees have levels of access inconsistent with their job classifications and duties. Two examples:

- One former Office of Investigative Services employee who has moved to the office of the department director still has Office of Investigative Services network and internal affairs case tracking system logon identification, which inappropriately gives the employee total access to sensitive and confidential information contained in the system.
- A former Office of Investigative Services internal affairs case tracking system information systems analyst who was promoted to a special agent position has now been given investigator access rights, but has also retained administrator rights associated with the earlier position. The broad access thereby afforded this employee is not consistent with appropriate information system access controls.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Department of Corrections and the Office of Investigative Services take the following actions to improve controls over access to the internal affairs case tracking system:

- Purge logon identifications for employees no longer working for the Office of Investigative Services or not otherwise required to have access to the office network and systems. Once the system is purged of unauthorized logon identifications, the office should formalize a process for purging logon identifications as part of the standard separation process when employees leave.
- Require the Office of Investigative Services system administrator to meet monthly or quarterly with the network manager from the Information Services Division to reconcile the list of authorized users maintained by the Information Services Division to the list of authorized users maintained by the Office of Investigative Services.
- Require separate passwords for the network and the case tracking system.
- Establish expiration dates for both network and case tracking system passwords.
- Retain at least a 30-day history of user access to the system.

FINDING 8

The Office of the Inspector General found that a significant number of investigation files lack sufficient documentation to show that the investigation was conducted in accordance with established guidelines.

The Office of Investigative Services has developed an investigation guide that establishes policies and procedures to govern the handling of investigations performed by its staff. The guide is intended to summarize requirements established by Title 15 of the *California Code*

of Regulations, provisions of the *California Penal Code*, and sections of the *Department of Corrections Operations Manual*, as well as accepted law enforcement practices.

The Office of the Inspector General evaluated a selected sample of 97 case files against the requirements of the investigation guide to determine whether the files contained the required documentation. The review disclosed the following deficiencies:

More than a third of the sample cases did not include a complete investigative plan. In 35 percent of the sample cases reviewed, the file either did not include an investigative plan or the plan included was incomplete. Nineteen percent of the cases contained no investigative plan at all. In the 16 percent of the sample cases that contained an incomplete plan, the missing information included witness lists, identification of evidence or collateral information, discussion of procedures, or signatures of the special agent and senior special agent.

Another one-third of the files did not include a complete investigative report. Five percent of the files did not contain investigative reports at all, while 32 percent contained investigative reports that failed to provide pertinent information. The most common significant deficiencies were the following:

- Allegations not summarized;
- Allegations inconsistent with the investigation request, and the inconsistency is not explained in the report;
- Conclusions did not address all allegations.

Because the investigative report provides the basis for any adverse action to be taken, it is imperative that the report completely and accurately summarize the investigation.

Conflict of interest statements were not used appropriately. Nineteen percent of the investigative case files either did not include a conflict of interest statement or contained a statement that was not signed. Other problems included the following:

- Statement was signed at the end of the investigation;
- Statement was not signed by all staff members participating in the investigation;
- Special agents acknowledged conflicts of interest but still participated in the interviews;
- Special agents failed to acknowledge conflicts of interest even though they conducted the initial investigative work as institutional staff members.

Since many of the special agents employed by the Office of Investigative Services have previously worked at the institutions the Office of Investigative Services investigates, it is essential that conflicts of interest be fully disclosed and that all requirements be observed.

Investigative files included minor documentation flaws. A high percentage of files were either missing documents or contained flawed documentation. Examples:

- No acceptance letter;

- No notification letter;
- No documentation justifying why witnesses identified in either the investigation request or the investigative plan were not interviewed;
- Same documents used for related cases without appropriate revision or explanation;
- Hours double-counted from the case chronology;
- No time extension forms;
- Inconsistencies in review date and report date;
- No documentation about why an allegation was dropped;
- No documentation about why a criminal case was dropped.

The Office of the Inspector General also found a lack of consistency among the regional offices in how the investigation files are maintained and organized. For example, one regional office extensively uses investigative case extensions for all of its cases; another has decided not to use case extensions; and a third uses case extensions sporadically. In addition, some regional offices use inventory checklists while others do not.

RECOMMENDATION

The Office of the Inspector General recommends that the Office of Investigative Services establish a managerial review checklist to ensure uniformity in the maintenance and documentation of investigative case files. The checklist should be signed and dated by the senior special agent responsible for reviewing the case files.

FINDING 9

The Office of the Inspector General found that the Office of Investigative Services does not have procedures in place to ensure that the regional offices process Category II case rejections consistently and properly.

Category II investigations into serious employee misconduct are initiated by the institutions (as the “hiring authorities”). Institutions request a Category II investigation by filing a Form 989 with a regional office of the Office of Investigative Services, and if the request is rejected the case is returned to the institution for handling as a Category I investigation. *California Department of Corrections Operations Manual* Section 31140.7.5 requires that when a case is rejected as a Category II investigation, the Office of Investigative Services regional office must provide a letter to the institution within 10 calendar days of receipt of the request, providing a clear explanation of the reason for the rejection. The special agent in-charge at each regional office of the Office of Investigative Services is responsible for reviewing each investigation request and determining whether it meets the criteria for Category II serious employee misconduct as defined in *Department of Corrections Operations Manual*, Section 31140.6.2.

The Office of the Inspector General randomly selected 100 rejection letters from the 1999 and 2000 calendar year for review and found inconsistencies in the reasons cases were

rejected as well as violations of the prescribed 10-day response deadline and failures to adequately explain the reason for rejection. Specifically:

Reasons given by regional offices for accepting or rejecting a case are inconsistent. The Office of the Inspector General found that the regional offices rejected several cases that appeared to meet the criteria for a Category II investigation, while other cases with less serious allegations were accepted. For example, a case involving allegations by a nurse that a physician had destroyed records—including inmate sick-call slips, physician orders, hospital admission records, and outpatient interdisciplinary progress notes—was rejected because the special agent in-charge judged the issue to be performance-related. Another case involving allegations of excess use of force by a correctional officer who was also a member of the institution’s investigative services unit, was also rejected. Yet, cases involving alleged “inefficiency” and use of profane language while on duty were accepted for Category II investigations.

Cases are sometimes rejected solely because of workload considerations. Regional offices sometimes reject cases for Category II investigation because of workload constraints or the anticipated amount of time required to complete an investigation. While that practice does not violate statutory law, it is inconsistent with *California Department of Corrections Operations Manual* Section 31140.7.5, which provides that cases meeting the criteria for Category II investigations are to be assigned for investigation. Even if workload constraints legitimately preclude all cases meeting the criteria from being investigated, the Office of Investigative Services has not established criteria for rejecting a case because of workload considerations, nor has it established criteria for assessing case priority.

Rejection letters are not sent within the prescribed time frame. In almost half the cases reviewed, the institution was not notified of the case rejection within 10 days of receipt of the request for investigation. Of the 100 sample letters reviewed, 48 letters did not meet the 10-day deadline. In two instances, more than 110 days elapsed before the Office of Investigative Services sent the rejection letter to the institution.

When a case is rejected for a Category II investigation, the institution is responsible for performing a Category I investigation. The 10-day deadline was instituted to help ensure that the institution is able to perform the Category I investigation and prepare the case for administrative action within the one-year statutory deadline. While minor delays in notifying the institution of the rejection may not be problematic, delays of several months make it difficult for institutions to meet the administrative deadline. Long delays also compromise the institution’s ability to conduct a complete and thorough investigation.

Rejection letters do not adequately explain the reason for rejection. In 15 of the 100 sample cases, the rejection notice did not sufficiently explain why the investigation request was rejected. Frequently, the rejection letter merely stated that the allegations did not meet the criteria for a Category II investigation. *California Department of Corrections Operations Manual* Section 31140.7.5 requires the Office of Investigative Services to provide a clear and detailed explanation of why a request for a Category II investigation was rejected. This requirement is intended to accomplish the following:

- Provide information to the institution to help it decide whether the matter should be resubmitted with additional information,
- Provide information to the institution about the application of Category II criteria in determining whether future cases should be forwarded to the Office of Investigative Services.

RECOMMENDATION

The Office of the Inspector General recommends the California Department of Corrections amend the *California Department of Corrections Operations Manual* to provide for centralized review and acceptance or rejection of investigation requests to ensure consistency.

In addition, the Office of the Inspector General recommends that the Office of Investigative Services take the following steps to improve the processing of requests for Category II investigations:

- Adopt a policy and procedures for assigning priority for case acceptance or rejection;
- Provide refresher training for special agents in-charge and senior special agents on the definitions of Category I and Category II misconduct;
- Establish procedures to ensure that case rejection letters are issued within the prescribed 10-day timeframe;
- Implement a review process providing for independent review of the rejection letters to ensure that the letters adequately explain why the case was rejected.

FINDING 10

The Office of the Inspector General found that Office of Investigative Services is not adequately fulfilling its responsibility for overseeing Category I investigations.

The Office of the Inspector General found that the Office of Investigative Services is not fulfilling its mandated responsibilities for tracking and auditing Category I investigations as specified in *California Department of Corrections Operations Manual* Section 31140.4.1. Category I investigations are performed by investigative services units at the institutions and involve employee misconduct less serious than that of Category II cases. Category I cases are those relating to job performance, fall within the normal scope of supervisory oversight, do not pose a threat to institutional safety and security, and do not negatively affect the operation or reputation of the Department of Corrections.

California Department of Corrections Operations Manual Sections 31140.7.4 and 31140.7.6 require the institutions to submit copies of the monthly log of all Category I investigations, as well as Form 989 requests for Category I investigations, to Office of Investigative Services regional offices. The intent of these requirements is to enable the Office of Investigative Services to monitor Category I investigations to ensure that they are conducted properly and to take appropriate action to rectify any problems.

The Office of the Inspector General found, however, that the Office of Investigative Services does not consistently obtain Category I investigation logs, Form 989 requests for Category I investigations, or investigation reports from the institutions. Many of the institutions do not submit any of this documentation and the Office of Investigative Services does not take action to obtain the information. Nor does the Office of Investigative Services have staff dedicated to reviewing Category I investigation reports, analyzing data contained in Category I investigation logs, or conducting audits of the Category I investigations performed by the institutions.

The staff at the Office of Investigative Services headquarters as well as the staff at the regional offices acknowledged that the Office of Investigative Services has had limited involvement in overseeing Category I investigations. The problem was attributed to staff resource limitations at the Office of Investigative Services and the large volume of Category I investigations performed at the institutions.

RECOMMENDATION

The Office of the Inspector General recommends that the Office of Investigative Services perform an analysis of the workload and resources necessary to implement an effective tracking system, perform data analysis, and conduct audits of the Category I investigations. The office also should develop a workplan to identify the initial objectives and timelines for implementing a legitimate oversight process.

If additional resources cannot be obtained, the Office of Investigative Services should use the information developed to determine the best way to provide at least minimal oversight of Category I investigations using existing resources. Potential improvements include the following:

- **Develop an improved management information system to track and monitor investigations and identify trends so as to focus resources on the most pervasive problems;**
- **Centralize the oversight function and redirect staff to perform oversight;**
- **Perform reviews on a sample basis;**
- **Perform both desk reviews and field reviews;**

- Use Department of Corrections internal audit staff to perform field audits.

FINDING 11

The Office of the Inspector General found that the procedures used by the Office of Investigative Services for handling evidence do not comply with regulatory requirements or the agency's own guidelines.

The handling and disposition of evidence by the Office of Investigative Services is guided by provisions of the *California Penal Code*, the *California Department of Corrections Operations Manual*, and the *Office of Internal Affairs Investigator Guide*. Appropriate evidence handling is essential to protecting the integrity of investigations and enabling the department to successfully pursue criminal or administrative action.

Each Office of Investigative Services regional office is responsible for maintaining an evidence storage vault suitable to providing secure custody of all physical evidence obtained during investigations. The *Office of Internal Affairs Investigator Guide* defines a secure evidence vault as a space or room locked and equipped with an alarm, and accessible only to the evidence custodian, alternate custodian, and the regional special investigator in-charge and his designee. Limiting access is necessary to maintaining accountability for the handling of evidence and to the maintenance of the evidence room and related records.

The Office of the Inspector General reviewed the evidence procedures and evidence storage facilities at two of the Office of Investigative Services regional offices. The evidence room at one region was found to be well maintained, but the Office of the Inspector General found the following deficiencies at the other regional office:

- ***The evidence room is not equipped with an alarm.*** Although the evidence room is locked and there is an alarm system for the overall office complex, the evidence room does not have a separate alarm.
- ***Access to the evidence room is not sufficiently controlled.*** The evidence log reflected the names of at least six different staff members making entries and processing evidence in addition to the primary evidence room custodian. Furthermore, the evidence and the armory rooms are keyed alike, allowing four additional individuals who have access to the armory also to have access to the evidence room.
- ***The evidence custodian does not record evidence into a bound evidence logbook.*** The *Office of Internal Affairs Investigator Guide* assigns the evidence custodian responsibility for ensuring that all items of evidence under the control of the regional special investigator in-charge are logged into a bound evidence logbook. This requirement is intended to prevent the evidence log from being altered or pages removed or replaced without detection. At this regional office, however, evidence is logged onto separate sheets in a folder secured by an Acco fastener.

- ***The evidence log does not contain all required information.*** The *Office of Internal Affairs Investigator Guide* lists information required to be included in the evidence logbook and specifies that descriptions of the evidence logged are to be as detailed as possible. The evidence log at this regional office, however, does not include required information, such as the date of discovery, location of discovery, name of the employee submitting the evidence, purpose of removing evidence from the vault, date evidence was returned, and the date and nature of disposition or destruction.
- ***The evidence log does not adequately document evidence removal.*** The *Office of Internal Affairs Investigator Guide* provides that the evidence custodian is responsible for ensuring that receipts are obtained and filed with the evidence log for any evidence released from the evidence room and that the evidence storage log clearly delineates the chain of custody. The evidence log for this regional office, however, reflected inconsistent entries and indicated that evidence had been removed without notation in the log and without the issuance of a receipt.
- ***The shelves in the evidence room are unlabeled and evidence bins are not arranged in sequence.*** Although evidence is logged by bin number, the corresponding bins are not arranged in numerical order. Coupled with documentation problems in the evidence log and case files, the disorganization of shelves and bins makes locating evidence and identifying chain of custody difficult.

To evaluate the evidence-handling and storage procedures at the facility, the Office of the Inspector General followed two investigations, beginning with a review of the investigative case file documentation and tracing the evidence to the evidence room. The review gave particular attention to whether the chain of custody had been preserved and documented in the evidence log. In neither case was the evidence handled properly. The following provides a detailed description of the deficiencies found, for example, in one of the investigations.

- In the first investigation, the items were not properly logged into evidence and no evidence receipt could be located. According to the investigation case file, the evidence seized included weapons, video cameras, and a video monitor. The Office of the Inspector General found that the two weapons were stored in the armory without being properly labeled or tagged. The only identification for the weapons consisted of a post-it note attached to the armory inventory log giving the subject's name, the case identification number, the location at which the weapons were confiscated, and the date confiscated. The video cameras and monitor were not stored in the evidence room and there was no entry in the logbook to show that the items had been seized or where they were being stored.

Conversely, the final reports in both the criminal and subsequent administrative cases reported that the cameras and monitor had been seized, but made no mention of the weapons seized. The agent assigned to the investigation told the Office of the Inspector General that the weapons had been seized in the belief that an active restraining order was in effect at the time the warrant was served. He said he had contacted the owner of the weapons, but no arrangements had been made for the weapons to be picked up.

The Office of the Inspector General traced the weapons to the armory and reviewed the supporting record-keeping documentation. The review showed that the serial numbers were recorded on the armory property inventory, but that the inventory was not dated or completely filled out. In addition, neither the evidence log nor the case files indicated that the weapons had been checked through the National Crime Information Center, and the serial numbers were not recorded in the evidence log or in either the criminal or administrative case files.

As the video cameras and monitor were not in the evidence room, the Office of the Inspector General asked where they might be stored. The agent answered that both the cameras and the monitor might be stored in cabinets elsewhere in the office. Further inspection revealed that the monitor was stored in an office cabinet, but with no evidence tag, chain of custody information, or other label to document that it was the same monitor seized. Neither the agent nor his supervisor was able to explain why the items were not properly marked and processed into evidence. The seized cameras were never located. Neither the staff nor the management of the facility was able to explain where the items might be located, why they had not been recorded in the evidence log, or why they were not stored in the evidence room.

The Office of the Inspector General found that the evidence custodian at this regional office has authored several internal memoranda dating as far back as February 26, 1998, addressing similar concerns about non-compliance with evidence-handling policies and procedures. Yet it appears that little, if any, action has been taken to address these concerns.

RECOMMENDATIONS

The Office of the Inspector General recommends that the Office of Investigative Services immediately address the evidence room deficiencies noted at the regional office. Steps that should be implemented include, but are not necessarily limited to, the following:

- **Provide training to all staff on general evidence-handling policies and procedures;**
- **Provide specialized training for evidence custodians and alternates;**
- **Make physical modifications, as necessary, to the regional evidence rooms to ensure that they meet all requirements;**
- **Re-key evidence rooms to limit access to the evidence custodian, the alternate, and the regional special agent in-charge;**
- **Use bound evidence logs that provide space for all mandatory information;**

- **Perform periodic audits at each of the regions to ensure compliance with policies and procedures.**

FINDING 12

The Office of the Inspector General found that the Office of Investigative Services is not in compliance with prescribed armory policies and procedures.

Each regional office of the Office of Investigative Services is to include a secure in-house armory where firearms, less-than-lethal weapons, chemical agents/munitions and related equipment are stored. *California Department of Corrections Operations Manual*, Section 55050 sets out procedures and provides guidance on the storage, maintenance, and record-keeping requirements for these armories.

The Office of the Inspector General visited the armories at two regional offices and found the armory operations at one regional office to be well run, but noted a number of deficiencies at the other armory. Specifically, the Office of the Inspector General found the following:

- ***The physical design and structure of the armory does not comply with department regulations.*** In particular, the armory is not equipped with an alarm and no sign designates it as the armory.
- ***Fire safety provisions are inadequate.*** The armory has no fire extinguisher, no fire evacuation plan posted, and candles and cleaning kits (both flammables) are stored in the room.
- ***Record-keeping is deficient.*** The information on the weapon issuance and return log (California Department of Corrections Form 655) is insufficient. There were no purchase orders or packing slips to support receipt of items and no receipt dates listed for weapons received.
- ***Two weapons seized during an investigation were stored in the armory, but not tagged as evidence.*** The armorer professed to have no knowledge of the weapons other than what was documented on a post-it note attached to the armory inventory log. In addition, no reference to the seized weapons appeared in the evidence log.
- ***The theft of a service weapon was not recorded or reported.*** The *California Department of Corrections Operations Manual* specifically requires any loss or theft of a service weapon to be reported immediately to the Department of Corrections deputy director of administrative services and to the local sheriff or police agency within whose jurisdiction the loss or theft occurred. The theft and the reporting are to be noted in the armory inventory log. The Office of the Inspector General found that a 9-mm Beretta service weapon was stolen from a special agent's automobile in the region, but that the armory inventory log included no record that a police report was filed or that the deputy

director of administrative services was notified. The Office of the Inspector General subsequently received a faxed copy of the police report on the theft of the weapon from the Office of Investigative Services headquarters.

- ***Gun inspections are not recorded.*** Department of Corrections policy requires the inspection, cleaning, and maintenance of all weapons to be recorded on the weapon cleaning and maintenance record, California Department of Corrections Form 659, which is maintained as part of the armory records. The Office of the Inspector General was told that although the weapons are inspected at the quarterly range certification, the inspections are not documented.
- ***A firearms/tear gas usage log was not retained in the armory.*** Department of Corrections policy requires each armory to maintain a firearms/tear gas usage log, which permanently records every instance in which a weapon, chemical agent, or other munitions is used or discharged. Each entry on the log is to identify the weapon used, the type and amount of ammunition expended, and the chemical agent or munitions used. The Office of the Inspector General found that this regional office armory does not retain such a log.

RECOMMENDATION

The Office of the Inspector General recommends that the Office of Investigative Services review the operations of the armories at all of its regional offices and address all areas of non-compliance, including those related to physical design, fire safety, and record maintenance and retention.

ATTACHMENT A

**Response of the Department of Corrections Office of
Investigative Services**

State of California

Department of Corrections

Memorandum

Date : October 22, 2001

To : John Chen
Chief Deputy Director
Office of the Inspector General

Subject: **REVIEW OF THE OFFICE OF INVESTIGATIVE SERVICES**

I have read the report detailing your review of the Department of Corrections Office of Investigative Services (OIS) and discussed the report with the OIS managers. We agree with many of the Finding and Recommendations. Some of the Findings generated lengthy discussion and additional recommendations to remedy operational problems

Further, as the interim Assistant Director for the OIS, I am in full agreement that a number of significant changes need to occur in order to manage the workload and fulfill our responsibility to the Department and the public.

Moreover, some changes are being implemented as this response is being prepared and other changes are being reviewed and discussed prior to recommendations being submitted to the Director. In addition to this written response a full corrective action plan will be submitted addressing each and every finding in your report.

As you are aware some of the necessary changes will require assistance from other departmental divisions, including but not limited to, the Legal Affairs Division and the Information Systems Division. The changing of some policies and written procedures will also be necessary in order to implement a number of recommendations generated both by your report and by discussions with Department of Corrections managers.

Lastly, your report has provided the Department of Corrections with a blueprint for change. I am currently using your report to assist me with a comprehensive review of OIS operations, budget, personnel, training, equipment, and the Offices' ability to fulfill its mission.

John Chen

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I have addressed each Finding and Recommendation to the best of my knowledge based on my current assignment as the interim Assistant Director in charge of OIS. I have only been in this position for approximately one month and have relied upon other departmental managers to draft this response. As I gain experience and knowledge of the OIS operation, the pending Corrective Action Plan will provide a more in-depth response to each Finding.

FINDING 1

The Office of the Inspector General found that the Office of Investigative Services can not effectively manage its caseload with its present staffing levels unless it makes significant changes in its management practices.

I agree with the OIS's Finding and its Recommendation. The 60-day time limit for completing investigations is unrealistic given the workload and current staffing levels. Policies and procedures need to be reviewed and re-written.

In addition, the current management information system needs revision as well. The prioritizing of cases is done by supervisors and managers, on a case-by-case basis daily. This is a necessity due to the high volume of cases and lack of resources.

Also some of the apparent lack of uniformity in office procedures at the regional level is a response to the limited management information system. Managers developed additional stand-alone systems to track cases. The different management styles of the Special Agents-In-Charge also contribute to the appearance of inconsistent operations and procedures.

At the current time, I am visiting each regional office to review operations and procedures. Additionally, the Department is in the process of developing a case management system incorporating the needs of OIS, Legal Affairs Division, and the Equal Employment Office.

There is also an effort being made for OIS to shed workload. A review of the intake process and the categorizing of cases will also be conducted. Upon completion of these tasks, recommendations to address the problems will be made to the Directorate.

FINDING 2

The Office of the Inspector General found that the management information system of the Office of Investigative Services is inaccurate and unreliable and does not contain the information needed for the agency to effectively manage its resources and caseload.

I agree in part with the Finding and fully with the Recommendation. The entire case tracking system needs an overhaul to meet the OIS and Departmental needs. The

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method of logging cases by number of staff involved in an incident rather than the incident itself needs review and modification. Also, the actual hours worked on an investigation needs changing. I will be requesting the complete review and updating of the case tracking system.

FINDING 3

The Office of the Inspector General found that the Office of Investigative Services lacks adequate controls to prevent overtime abuse.

At the current time a complete review of how overtime is used, approved, and documented is being completed. It is agreed that appropriate controls will be in place to ensure overtime abuse does not occur. A review of the OIS budgeted funds for overtime will also be completed in relation to workload and need for timely completion of investigations.

FINDING 4

The Office of the Inspector General found that because of a departmentally imposed 11-hour limit on conducting background investigations, background checks of Office of Investigative Services agents are inadequate.

I agree in part with the Finding and Recommendation as they relate to the background investigations of OIS Special Agent candidates. The background investigations take too long and the delays negatively impact OIS operations. This problem needs to be addressed by the Directorate in order to improve the process.

FINDING 5

The Office of the Inspector General found that the department does not conduct background checks for staff performing internal affairs investigations.

I agree all staff conducting internal affairs investigations should undergo the same background checks. As in Finding 4, this problem needs to be addressed by the Directorate.

FINDING 6

The Office of the Inspector General found that the Office of Investigative Services does not have a formalized plan for training special agents or sufficient means to monitor and track the training progress of special agents to ensure compliance with prescribed training policies.

I agree with the Finding and the Recommendation that an annual training plan be developed, funded, and tracked. I am in the process of addressing this Finding.

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FINDING 7

The Office of the Inspector General found that the internal affairs case tracking system does not have adequate controls to prevent unauthorized access.

I agree with the Finding and Recommendation. The entire case management and tracking system needs improvement.

FINDING 8

The Office of the Inspector General found that a significant number of investigation files lack sufficient documentation to show that the investigation was conducted in accordance with established guidelines.

This Finding needs a thorough comprehensive review by the current interim Assistant Director prior to any formal written response. The OIG's concerns will be fully addressed as regional offices are visited and case files reviewed. It would be helpful to know the identity of the case files reviewed so the deficiencies could be corrected. The recommendation of a managerial review checklist will be implemented to ensure all of the files contain the necessary documentation.

FINDING 9

The Office of the Inspector General found that the Office of Investigative Services does not have procedures in place to ensure that the regional offices process Category II case rejections consistently and properly.

I agree with the Finding and the Recommendation will be reviewed to determine how OIS can improve on the entire intake process, including both case acceptance and rejections.

FINDING 10

The Office of the Inspector General found that Office of Investigative Services is not adequately fulfilling its responsibility for overseeing Category I investigations.

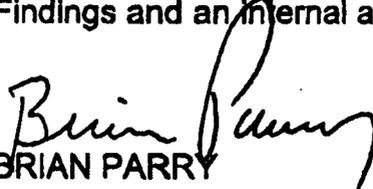
I agree with the Finding. This is a workload issue, which needs to be addressed by increased staffing or policy changes. All of the OIG recommendations and several presented by OIS managers will be examined prior to recommendations being made to the Directorate, and an action plan will be implemented.

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FINDINGS 11 AND 12

The Office of the Inspector General found that the procedures used by the Office of Investigative Services for handling evidence do not comply with regulatory requirements for the agency's own guidelines; and ,Finding 12) The Office of the Inspector General found that the Office of Investigative Services is not in compliance with prescribed armory policies and procedures.

I agree with the Findings and will make the appropriate modification and changes to fix the problems noted. Agents will be provided with additional training relative to the Findings and an internal audit system will be implemented.


BRIAN PARRY
Assistant Director (Interim)
Office of Investigative Services

cc: Ed Alameida
David Tristan
File